

# SENATE BILL REPORT

## ESSB 6800

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As Passed Senate, February 18, 2008

**Title:** An act relating to the disposition of publicly owned railroad infrastructure.

**Brief Description:** Concerning the disposition of publicly owned railroad infrastructure.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Hobbs, Oemig and Haugen).

**Brief History:**

**Committee Activity:** Transportation: 2/6/08, 2/11/08 [DPS, DNP].  
Passed Senate: 2/18/08, 34-14.

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Substitute Senate Bill No. 6800 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Marr, Vice Chair; Murray, Vice Chair; Swecker, Ranking Minority Member; Berkey, Eide, Jacobsen, Kastama, Kauffman, Kilmer, Pflug, Sheldon and Spanel.

**Minority Report:** Do not pass.

Signed by Senators Benton, Delvin, Holmquist and King.

**Staff:** Dory Nicpon (786-7321)

**Background:** Under federal law, the Surface Transportation Board (STB) regulates many railroad issues. The STB has preemptive jurisdiction over many railroad rate and service issues, and rail restructuring transactions (mergers, line sales, line construction, and line abandonment). A state may only regulate rail line abandonments or sales that either are not subject to federal jurisdiction, or do not interfere with interstate rail operations.

The Department of Transportation must implement a state rail plan according to specified priorities, which include the preservation of rail corridors.

Under current law, local governments receive distributions from taxes collected on the sale of motor fuel (the gas tax), and certain special districts may impose property taxes and special assessments.

**Summary of Engrossed Substitute Bill:**

A local government, port district, rail district or other special district may not remove or disassemble railroad infrastructure except: 1) to comply with statutory obligations; 2) if the

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removal or disassembly is incident to a fully funded plan to realign or improve the railroad infrastructure within five years; 3) to remove unused rail infrastructure incident to legislatively authorized capital construction; 4) incident to a project for which 30 percent or more of the preliminary engineering is complete as of the effective date of this act; or 5) with prior legislative approval.

A local government, port district, rail district or other special district may not sell, transfer or dispose of railroad infrastructure except: 1) to a local government, port district, rail district, or special district; 2) pursuant to an interlocal agreement for the sustained use of the infrastructure; 3) incident to legislatively authorized capital construction; 4) incident to a project for which 30 percent or more of the preliminary engineering is complete as of the effective date of this act; or 5) with prior legislative approval.

The Department of Transportation must determine the replacement cost of any railroad infrastructure that is impermissibly removed or transferred. The local government, port district, rail district or other special district that impermissibly removed or transferred the railroad infrastructure must pay a monetary penalty equal to double the replacement cost of the railroad infrastructure. The penalty is deposited into the transportation infrastructure account and may be used only to fund rail capital improvements.

The specified removal and sale restrictions apply to railroad infrastructure that is not subject to the jurisdiction of the STB, or for which state regulation does not interfere with interstate rail operations.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Preservation of rail infrastructure is critical to maintaining transportation options, particularly with the prohibitive expense associated with constructing new rail infrastructure. Once lost, rail infrastructure is nearly impossible to replace. Any decisions about the removal of rail infrastructure should be made through a very deliberate process.

CON: Constraining the future use of rail infrastructure may have the effect of devaluing rail property that a mainline railroad company contemplates selling to a local entity.

OTHER: The preservation of rail infrastructure is an important objective. Once lost essential rail corridors almost never return to service, so this bill is good public policy. However, legislative approval may not be a sufficiently nimble means of obtaining approval to remove or sell track, and the bill may undermine a locally established process for public input regarding the best use of rail corridors, contain unintentionally restrictive language, and be too punitive rather than incentive-based.

**Persons Testifying:** PRO: Senator Steve Hobbs, prime sponsor; Lew McMurrin, Washington Software Alliance; Lloyd H. Flem, All Aboard Washington.

CON: Bill Stauffacher, Burlington Northern Santa Fe Railway.

OTHER: Robert Mack, City of Tacoma; Henry Yates, Port of Seattle; Rick Wickman, Port of Vancouver; Pat Jones, Washington Public Port Association; Sean Eagan, Port of Tacoma.